

DOJ

September 30, 2010

President Barack Obama
The White House
1600 Pennsylvania Ave
Washington D.C

RE: Discrimination complaint [REDACTED]

Dear President Obama,

I am writing to you with the hope that you will hear my complaint and conduct an unbiased investigation.

Farm Purchase and Conservation Plan

I grew up on this 93-acre farm on Mastersonville Road, Manheim, PA (Rapho Township, Lancaster County) and helped my family farm it. In 1992, my father sold a 1.5 acre lot off a hilly slope of the farm on Hilltop Road. The lot is bordered on the north, west, and south by the farm and the east side is on Hilltop Road.

On 10/31/03 my husband and I bought this farm from my father. He died in Feb. '04. Because my son expressed interest in the farm, we used a like-kind exchange on our home farm, our life savings and a very large mortgage to purchase it. We had to pay market price, but decided to take the financial risk.

I took responsibility for implementing the farm's conservation plan in 2005. It included a grassed waterway in field 2. (See NRCS Conservation Plan...) In 2005 and 2006 I inquired about federal funds for the waterway and was told there were no funds and our farm was not high priority. All other elements of the plan were fully implemented. To satisfy the plan I sought and obtained permission from the NRCS district conservationist, John Bert, to do skip plowing, in lieu of the waterway. Erosion was minimized by planting fields 2 and 7 in perennial forages. No erosion was observed in field 2.

Excavation, Encroachment, Erosion & Sediment Control violations

In 2008 the third lot owner, [REDACTED], moved in. Our introduction to them was to find a track hoe excavating on our property on 12/14/08. [REDACTED] converted a Rapho Township required retention basin to a pond in excess of 15 feet. The inlet pipe was placed in the drainage easement that straddles both property lines and an outlet pipe extended 20 feet beyond their property line onto our land. The pond is about 18 feet from the property line. Dredged material from the basin was dumped on our land, all perennial vegetation was removed, and soil from the steep west slope of our land was moved around in piles. Not only was our property violated, but also multiple Rapho ordinances, Ditch & Drainage Law, and the Clean Stream Law. Violations included piping of water, construction in watercourses, and pond location and construction. (See Rapho ordinances, Clean Stream Law)

[REDACTED] did not respond to multiple attempts to speak to him until 12/24/08 when he said that he would "continue his excavation and worry about property lines later." I complained to Erosion and Sediment Control (E&S) of Lancaster County Conservation District (LCCD) on 12/15/08 about the lack of erosion control measures, and the soil eroding from our farm. Three weeks of heavy rain seriously eroded the denuded northwest corner of our property and excavated dirt piles. The drainage easement recorded in the [REDACTED] deed was compromised and compacted by this excavation. (Photos 105-105, 011-11, 009-9)

[REDACTED] from E&S visited the site but took no action. PA Erosion and sediment control requires BMPs for all earth disturbance activity and a written plan for any earth disturbance over 5000 square feet. (See PA Code 102.4. b (1-8) #8 states upon complaint either the Department or county conservation district may require that the plan be submitted for review and approval to ensure compliance.) No E&S plan exists and excavation on our property was in excess of 10,240 sq. ft.

Rapho Township was contacted on 12/15/09. Although Rapho ordinances require a DEP permit for pond excavation and a permit for any excavation or building, [REDACTED] had no permits. (See Rapho ordinances) We learned that he was building a garage in addition to the pond. The only action the township took was to require a building permit. [REDACTED] misrepresented setbacks in his building permit. His pole building setbacks are less than 10 feet in the rear and less than 20 feet on the left side which includes the drainage easement. Rapho neither checked on his building nor did they enforce required E&S measures. (See Building permit)

On 9/6/09 I filed a written complaint with PA DEP concerning the lack of enforcement of PA regulations and permits and requesting an investigation. (see Draft DEP letter2) DEP's investigation consisted of talking to [REDACTED] stating that I had not implemented the piped waterway required in our 2005 conservation plan. Please refer to the Larson statement above and the 2005 plan. A grassed waterway was designated for field 2.

In retaliation for filing a complaint with DEP, we received a letter from [REDACTED] dated 10/8/09 stating that a piped waterway must be implemented or we will be subject to fines of \$10,000 and up. On 10/16/09 we filed a written request for an appeal. (see LCCDltr10082009, LCCD appeal, notice of request for appeal) We found out through the Ag Preserve Board that our appeal was denied. I never had the opportunity to present any information to an appeal committee and the only response I received was to confirm receipt of our request.

On 10/19/09 at 11:43 a.m. a message was received indicated that [REDACTED] planned to inspect our property at 2:00 pm that day. I was not home, but he visited anyway. He visited again on 10/28/09 when I was present. Following several days of very heavy rain he filed an Earth Disturbance and Inspection report. (see Earth Disturbance report) The report said there is water everywhere but fails to mention the water gushing onto our land from Schanz's pond or from the pipe from the neighboring farm which I pointed out to him. When I asked [REDACTED] who is responsible for storm water runoff, he said "no one."

I called to his attention the new wet area that occurred after [REDACTED]'s construction and its location, on our property, uphill from the drainage swale and below [REDACTED]'s garage. This is where [REDACTED] excavated and took our topsoil to place around his building. (See photo 005-5.) When I asked [REDACTED] to look at this area, he said, "It is none of my concern." His report reflects no contributions/problems from uphill land owners.

NRCS Involvement

Due to the discriminatory treatment I receiving from LCCD, I investigated other options hoping to find a reasonable alternative. I met with NRCS on 12/21/09 and 1/7/10. The NRCS engineer, [REDACTED], visited the site in February, and asserted that [REDACTED]'s pond was spring fed. I pointed out the outlet pipe from the neighboring farm and the intake and outlet pipe from [REDACTED]'s pond. I also pointed to current water quality literature that recommends alternatives to piping, citing evidence that piping quickly removes water from the site, but typically only moves the problem downstream. I said that the LCCD plan contains no method of slowing down the water as it enters Brubaker Run. I expressed concerns about pollutants being piped directly into the creek. When I questioned [REDACTED] about the pond's piped outlet dumping water directly onto our land and the garage's drain pipe he said NRCS had no responsibility to do anything about it.

[REDACTED] presented a \$12,346.78 plan to handle the problem. Now, two pipes were needed where previously no pipes were needed. Both pipes start at Hilltop Road and join on our property down slope from the pond and garage. (See NRCS waterwayplanview042910) I would like to reiterate that the original grassed waterway cost \$2,396.76 and pipes were not considered necessary above the "seepage" area.

During the on-site plan discussion when I questioned this design, [REDACTED] used physically intimidating body language to get me to concede. My husband stepped in and he backed off. On 4/14/10, [REDACTED] said that a contract would be drawn up and both [REDACTED] and I would need to sign it. This did not occur. I was presented with a plan and asked to sign it within two days that held only me financially and contractually accountable. My attorney reviewed the contract and advised me to sign it, regardless of the fact that it holds me responsible for practices installed on [REDACTED]'s land, (see NRCS appendix, section D) so that I could protect the only financial opportunity I had to get cost share assistance. I signed the contract because I was coerced and could not pay the fines if I did not.

Rapho Township connects pipes from Groff farm and Schanz property to waterway

The wet area/seep that resulted from [REDACTED]'s excavation of our property required 75 feet of 4" perforated tile with 2' stone drain/fill with a price of \$277.50.

To my utter amazement, Rapho Township paid to connect the drain pipe from [REDACTED]'s field on the east side of Hilltop road to the pipe on the west side of the road that [REDACTED] uses as an inlet to his pond. (see 003 pipe...) At our expense alone, NRCS required us to install tile line on [REDACTED]'s property that continues onto our property

and now connects to [REDACTED]'s pond. The connecting pipe is in direct violation of Rapho Township ordinance, the storm water management act, and DEP regulations. (see Stormwater Management Act, Dam Safety and Encroachment and Rapho Ordinances) An additional 300 feet of perforated drain tile with stone was installed to accommodate [REDACTED] unpermitted pond outlet, again at our expense of \$1350. The township did not offer to pay any of my expenses.

I insisted on a conservation practice to slow down the velocity of piped water as it enters Brubaker Run for which I received no funding. In spite of [REDACTED]'s assertion that his measurements were extremely accurate, cost share reimbursement documents I received and used to hire a contractor were 100 feet over what was actually reimbursed. This was the first and only time I received cost share assistance, so I was unaware of the need to measure the area myself prior to signing documents. When I said that the cost share reimbursement procedure was inadequately explained, I was blamed for not asking more questions. Simply stating that this is the maximum reimbursement and measurements would be taken after completion would have sufficed. In every instance I had 1-2 days to sign documents with the threat of loss of funding.

Summary

In summary, I was treated in a negative, discriminatory way. I was subjected to a different set of rules and standards than the adjoining land owners and coerced into paying for and correcting problems created by others. Rapho Township ordinances and PA DEP rules were blatantly disregarded and violated and no one from LCCD, NRCS, or Rapho Township held [REDACTED] or [REDACTED] accountable for their violations of these rules and ordinances. The entire situation was turned on its head, holding only me accountable for the problem simply because my farm lies downstream from the violators. [REDACTED] misrepresented the 2005 conservation plan and its requirements to force me to install a piped waterway. The original plan required a grassed waterway and morphed into a plan requiring two underground pipes from Hilltop Road. When I questioned the planners and cited "best practice" approaches, I was ignored, insulted, and intimidated. I was denied the opportunity to appeal the actions of LCCD without as much as a hearing. I was threatened with fines if I did not do exactly as [REDACTED] directed, and I was coerced into paying for a "solution" that should have been solved using infiltration methods.

The only enforcement action taken was to require me to install a piped waterway. The message to the neighboring land owners is violating laws and regulations are of no consequence. The message to me is, "If you question us, we will make you pay."

Because I am a woman and questioned these men in authority positions, I was treated as a second class citizen, denied due process, and my civil rights were violated. Because federal funds are involved, I would like your administration to investigate my complaint. Every citizen deserves and must receive equal treatment under the law and our laws must be equitably enforced.

Sincerely,

[REDACTED]
Cc: Senator Robert P Casey
Mr. Tom Vilsack, USDA
Mr. Gregory P Singleton, USDA